



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,613	02/02/2004	Roger M. Snow	PA0967.ap.US	2305
75035                      7590                      11/28/2008 Mark A> Litman and Associates, P.A. York Business Center 3209 w. 76th Street Suite 205 Edina, MN 55435				
EXAMINER				
NGUYEN, BINH AN DUC				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
11/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/770,613

**Applicant(s)**

SNOW, ROGER M.

**Examiner**

Binh-An D. Nguyen

**Art Unit**

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-30.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Dmitry Suhol/  
Supervisory Patent Examiner, Art Unit 3714

Continuation of 11, does NOT place the application in condition for allowance because: The references of Boylan et al. and Suttle et al. and reasons of obviousness set forth in the Final Rejection sent September 9, 2008 do teach towards applicant's claimed invention.

Particularly, Boylan et al. teaches a method of playing a Pai Gow poker wagering card game comprising: (a) Players wagering on a Pai Gow game (1:59-65); (b) Players placing either an optional or mandatory wager (e.g., bonus bet) against a pay table on a separate poker-type game that uses a best five-card hand from each player's hand (1:65-2:22); (c) dealing seven-card hands from a set of cards to multiple player positions and one dealer position (1:66-2:3); (d) resolving the game of Pai Gow poker (2:3-13); (e) forming best five-card poker hands for at least each player having placed the wager against the pay table (2:14-19); (f) resolving wagers with players who have placed the optional wager when that player's best five-card poker hand equals or exceeds a predetermined rank (2:14-22). Suttle et al. further teaches a method of playing poker which provides an additional award to players who have placed the optional wager (e.g., placing bet after an "ante") when that player's best five-card poker hand equals or exceeds a predetermined rank (2:21-42; 4:4-52) and when a best five-card hand for the dealer is equal to or less than a predetermined rank (e.g., when the dealer's hand is less than Ace-King)(2:32-35; 4:4-12). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the poker rule of Suttle et al. to Boylan et al.'s Pai Gow poker game to provide game player more winning chances thus attract more players to the game and increase casino profit. Boylan et al. in view of Suttle et al., therefore, made obvious the applicant's claimed invention.

The applicant argued that no reference shows increasing an existing award or award on the side bet (or additional wager) when a dealer's hand has a low rank (Applicant's Remarks, page 15, lines 7-15) is deemed not to be persuasive. As being addressed in the Final Rejection, the limitation of increasing the amount of payment to players as claimed is equivalent to providing additional award as taught by Suttle et al. since they both enhance the award of the players who placed bonus bet. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the poker rule of Suttle et al. to Boylan et al.'s Pai Gow poker game to provide game player more winning chances thus attract more players to the game and increase casino profit.